

	<p>Child &amp; Adult Care Food Program</p> <p>ADMINISTRATIVE REVIEW (APPEAL) PROCEDURES</p>	<p>Teaching and Learning Support Child Nutrition Services 801 West 10<sup>th</sup> Street, Suite 200 P.O. Box 110500 Juneau, Alaska 99811-0500</p>
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If you disagree with a decision rendered by the Department of Education and Early Development, you have the right to request an administrative review of that decision by an impartial Administrative Review (Hearing) Official. In order to arrange for a review, you must file a written request within 15 calendar days of receipt of the notice of the decision. The request should state the reasons why you feel the decision or action is wrong and if you want an in-person hearing. Your request must be addressed to the following office:

**Office of the Commissioner  
Department of Education & Early Development  
801 W. 10<sup>th</sup> Suite 200  
Juneau, Alaska 99801**

**I. State Agency Responsibility:**

- 1) Send written notice of reason for action to agency and responsible parties
- 2) Inform agency & responsible parties of appeal rights

**II. Appellant Responsibility**

- 1) Request administrative review – not later than 15 calendar days (in writing) from date of receipt of notice (earliest form of transmission)
- 2) Specify in person if desired
- 3) Submit written documentation or evidence within 30 days of receipt of notice
- 4) Be present at hearing (may represent self, retain legal counsel, or may be represented by another person) or lose right for hearing

**III. Administrative Review (Hearing) Official Responsibility**

- 1) Acknowledge receipt of administrative review request within 10 calendar days of receipt
- 2) Notify appellant and State Agency of Hearing location and time 10 calendar days in advance (if applicable)
- 3) Make decision
- 4) Notify appellant and State Agency within 60 calendar days of receipt of request for administrative review

***Time to request administrative review.*** The request for administrative review must be submitted in writing **not later than 15 calendar days after the date the notice of action is received**, and the State agency must acknowledge the receipt of the request for an administrative review **within 10 days of its receipt of the request**. A notice is considered received by the institution or responsible principal or responsible individual (RP/Is) five days after being sent to the addressee's last known mailing address, fax number or e-mail address. Any timeframes associated with a given notice start with the earliest form of transmission.

**Representation.** The institution and the RP/Is may retain legal counsel, or may be represented by another person.

**Review of record.** Any information on which the State agency's action was based must be available to the institution and the RP/Is for inspection from the date of receipt of the request for an administrative review.

**Opposition.** The institution and the RP/Is may refute the findings contained in the notice of action in person or by submitting written documentation to the administrative review official. In order to be considered, written documentation must be submitted to the administrative review official not later than 30 days after receipt of the notice of action.

**Hearing.** A hearing must be held by the administrative review official in addition to, or in lieu of, a review of written information only if the institution or the RP/Is request a hearing in the written request for an administrative review. If the institution's representative, or the RP/Is or their representative, fail to appear at a scheduled hearing, they waive the right to a personal appearance before the administrative review official, unless the administrative review official agrees to reschedule the hearing. A representative of the State agency must be allowed to attend the hearing to respond to the testimony of the institution and the responsible principals and responsible individuals and to answer questions posed by the administrative review official. If a hearing is requested, the institution, the RP/Is, and the State agency must be provided with at least 10 days advance notice of the time and place of the hearing. A rescheduled hearing must still be held in time to render a decision within 60 calendar days of the original request for an appeal.

**Administrative Review (Hearing) Official.** The hearing official must be independent and impartial. This means that, although the hearing official may be an employee of the State agency, he/she must not have been involved in the action that is the subject of the administrative review, or have a direct personal or financial interest in the outcome of the administrative review. The institution and the responsible principals and responsible individuals must be permitted to contact the administrative review official directly if they so desire.

**Basis for decision.** The hearing official must make a determination based solely on the information provided by the State agency, the institution, and the RP/Is, in Federal and State laws, regulations, policies, and procedures governing the Program.

**Time for issuing a decision.** Within 60 calendar days of the State agency's receipt of the request for an administrative review, the hearing official must inform the State agency, the institution's executive director and chairman of the board of directors, and the RP/Is, of the administrative review's outcome..

**Final decision.** The determination made by the hearing official is the final administrative determination to be afforded the institution and the RP/Is.

**Appealable Actions: 226.6 (k)(2)**

- (i) Denial of a new or renewing institution's application for participation
- (ii) Denial of an application submitted by a sponsoring organization on behalf of a facility;
- (iii) Proposed termination of an institution's agreement
- (iv) Proposed disqualification of a responsible principal or responsible individual
- (v) Suspension of an institution's participation
- (vi) Denial of an institution's application for start-up or expansion payments
- (vii) Denial of a request for an advance payment
- (viii) Recovery of all or part of an advance in excess of the claim for the applicable period
- (ix) Denial of all or a part of an institution's claim for reimbursement
- (x) Decision by the State agency not to forward to FNS an exception request by an institution for payment of a late claim, or a request for an upward adjustment to a claim
- (xi) Demand for the remittance of an overpayment
- (xii) Any other action of the State agency affecting an institution's participation or its claim for reimbursement.